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Current Topics.

Identification Parade.

THE IDENTIFICATION parade, fairly and intelligently conducted, has a distinct value in criminal investigation, although its limitations are well known to those conversant with trials in courts of justice. The parade is sometimes used in circumstances where it is a work of supererogation and may lead to misapprehension. In a recent inquiry in a police court into two charges against the same defendant, it was part of the case for the prosecution that a document which formed part of the contents of a bag stolen from the first prosecutor was used as an instrument for defrauding the second. The defence was that the bag had been taken with no felonious intent and had been abandoned almost immediately after it was taken; the fraud which formed the subject of the second charge might indeed have taken place—no doubt did—but it must have been effected by some person who had subsequently picked up the bag and became possessed of its contents. The prosecutor in the second case had picked out the accused from among a number of other men as the man who had committed the fraud upon him. In cross-examination it appeared that this second prosecutor had been present at the hearing of the first charge, in company with the first prosecutor, the document in question having, in a roundabout way, been the means of bringing them into communication with one another, and he had then seen the accused and acquired the knowledge that he was charged with, *inter alia*, stealing the said document. The identification parade, held later, could be of no real utility, and unless all the facts were fully appreciated in their due time relation would be a source of confusion.

Crown Bound by Statute?

THE RECENT case of *Board of Trade* v. *Cayzer Irvine & Co., Ltd.*, reported *ante*, p. 560), is interesting, not so much for what it decides, as for what it does not decide. The point which the House of Lords decided, to put it quite shortly, was that where an arbitration clause provides that the making of an award shall be a condition precedent to the bringing of an action, the Statute of Limitations does not begin to run until an award has been made. But the more interesting question and one of "great historical interest" which was left undecided was whether the Crown has a right to take advantage of the Statute of Limitations. In other words, can the Crown say *Nullum tempus recurrit regi* and we are not bound by the statute, but we can take advantage of it. In the Court of Appeal Sir JOHN SIMON, on behalf of the company, said that the Crown, unless expressly named, was not bound by any Statute of Limitations and could not take advantage of any statute which did not bind it, that the statement to be found in Chitty's "Prerogative of the Crown," p. 382, and repeated in later text-books, that the Crown could plead the statute, was not supported by any authority, and its origin was to be found in a *dictum* in the argument of the Attorney-General in the *Magdalen College Case*, 1615, 11 Co. Rep. 66 b, a *dictum* which was not even relevant to the question before the court. It seems strange that an important statement of law confidently "repeated by text-book after text-book for centuries" should now be declared to be without foundation and based on a misconception, but an explanation may perhaps be found in the fact that at the time the *dictum* was made the Crown was in a very different position from what it is now. At the time of the Stuarts the doctrine was maintained, not only by the King but by lawyers, that the prerogative was superior to the ordinary law of the land, and that the Crown could suspend the operation of statutes, or at any rate dispense with obedience to them. Hence the *dictum* in question, which no doubt was sound enough at the time, but whether it is still so is a question which, in the opinion of SCRUTTON, L.J., will have to be re-considered when it has to be decided.

Workmen's Compensation Act, 1925.

THE DECISION of the Court of Appeal in *Welsh Navigation Steam Coal Co., Ltd.* v. *Evans and Another*, setting aside the award of the County Court Judge of Glamorgan, has been reversed by the House of Lords, reported in *The Times*, 15th July. The facts of the case, which raised interesting and important points under the Workmen's Compensation Act, 1925, were briefly as follows: A coalminer, twenty years of age, whose average weekly earnings were £1 13s. 1d., met his death as a result of an accident arising out of and in the course of his employment. He had lived with his father, mother and brother, the father's weekly earnings being £4 4s. 9d., and the brother's £3 17s. 9d. The question was

whether the parents of the deceased were partially dependent upon his earnings at the time of his death and entitled to compensation in respect thereof. Section 4 (2) of the Workmen's Compensation Act, 1925, provides: "A person shall not be deemed to be a partial dependant of another person unless he was dependent partially on contributions from that other person for the provision of the ordinary necessaries of life suitable for persons in his class and position." The county court judge held that on the evidence before him there was no dependency proved. The Court of Appeal set aside this award on the ground that the county court judge had or might have misdirected himself in that he had not, or might not have, considered whether a certain part of the total family income retained as saving was also one of the necessaries of life. Dealing with this point in the House of Lords, Lord DUNEDIN stated that "necessaries of life" was a common well-understood expression which indicated food, clothing, and shelter, and the necessary concomitants thereto. He thought that its extension to savings was an inexcusable violation of the expression which wrested a word used in a statute from its ordinary and natural meaning. His lordship also referred to counsel for the respondent's suggestion that a judgment against him would mean that when there was a capital sum invested which represented savings, then, so long as the capital was unexhausted, there could be no contribution. In this class of case, however, the family income only has to be considered, and this does not involve touching the capital, the interest on which is, of course, included in the income.

Goodwill under Deed of Assignment.

AFTER SOME fluctuation of judicial opinion upon the point, it was finally decided by the House of Lords in *Trego* v. *Hunt*, 1896, A.C. 7, that a person who sells the goodwill of his business may not thereafter derogate from his grant by soliciting his former customers. The vendor, said the House of Lords, cannot by his actions immediately destroy what he has just granted. The rule so laid down, which commends itself to the business man as well as to the lawyer, is not however of universal application; like most rules it is subject to exceptions, and it is important to note what these are. In *Walker* v. *Mottram*, 1881, 19 Ch.D. 355, the Court of Appeal, affirming Sir GEORGE JESSEL, M.R., decided that the rule which precludes the vendor of the goodwill of a business from soliciting his former customers does not extend to the case of a compulsory alienation as in the case of a bankruptcy; in such a case, said the court, the bankrupt is entitled to canvass his former customers, inasmuch as to restrain him from doing so might prevent him from earning his livelihood. Does the like exception to the general rule obtain where there has been no bankruptcy but a deed of assignment has been executed by a debtor in favour of a trustee for the benefit of creditors? This point came before WARRINGTON, J., in *Green & Sons (Northampton)* v. *Morris*, 1914, 1 Ch. 562, and there that learned judge held that the execution of a deed of assignment by a debtor is for this purpose as involuntary an alienation as in the case of a bankruptcy, with the consequence that the assigning debtor is not precluded from soliciting his old customers. That decision, which had stood unchallenged for thirteen years, came up for consideration before the Court of Appeal in the recent case of *Farey* v. *Cooper*, 1927, W.N. 209, and was approved and applied. In the deed of assignment there in question the debtors covenanted to "do all such acts and things in relation to the debtors' property and the distribution of the proceeds amongst the creditors as may be reasonably required by the trustee, and will aid to the utmost of their power the realisation of the debtors' property and the distribution of the proceeds thereof amongst the creditors," and it was asked, not without some pertinence, how solicitation of the former customers of the debtors could be reconciled with a due observance of such a covenant? It was found, however, that the language of the covenant was identical with that used in the Bankruptcy Act in relation to a bankrupt's obligation, and as notwithstanding that language the Court of Appeal in *Walker* v. *Mottram* had declined to restrain a bankrupt from canvassing his old customers, it was difficult to contend with success that the same language should produce a different consequence when used in a deed of assignment. Whether this exception to the *Trego* v. *Hunt* rule is based on sound policy may be open to question, but until it is disapproved by the House of Lords trustees under deeds of assignment would do well to ensure that assigning debtors enter into an express covenant precluding them from soliciting their former customers, as without such a covenant the goodwill is of no very obvious value.

Wife's Income from Reversionary Interests.

AN IMPORTANT point of divorce law was recently decided by Mr. Justice HILL in *Allison* v. *Allison* (71 SOL. J., p. 682), the point in question being whether, when an order for restitution of conjugal rights had been made, which was disobeyed by the husband, the court had the power to make an order securing to the wife any part of her husband's reversionary interests, unless and until the same came into the possession of or was sold by the husband. The husband in this case had not obeyed the restitution order, and the registrar had ordered the husband to secure to his wife, in addition to other sums, one-third of the income to be received by him from certain reversionary interests to which he was entitled. The power which the court has of ordering such periodical payments, and further, if necessary, if it so thinks fit, the securing of such payments, is now derived from s. 187 of the Judicature Act, 1925, and, by s. 196 of that Act, power is given to the court to vary or modify any such orders for periodical payments. There is some authority to be found, to the effect that the court cannot make an order that the husband should secure his reversionary interests unless and until the same fall into possession or are sold by him. Thus in a decision given under s. 2 of the Matrimonial Causes Act, 1884, the provisions of which are identical with s. 187 of the Judicature Act, 1925, by which it is replaced, Sir SAMUEL EVANS laid down the law as follows: "The third head of submission," said the learned President, "is that one-third of the husband's interest under his father's will to come into possession after the death of his mother be secured for the benefit of the petitioner for life. This . . . is not a proper order for periodical payments. *If and when the husband's reversionary interests under his father's will comes into possession* and provides him with more capital or income, an application can be made for an increase of the amount (of the periodical payments). Such an application could also be made if *the husband sold his reversionary interests* (if he has the power to do so) before it fell into possession": *Tangye* v. *Tangye*, 1914, P. 211. Following this ruling, HILL, J., held that the order made by the learned registrar in *Allison* v. *Allison*, ordering the husband to secure one-third of the income to be received by him from his reversionary interests, was wrong, the learned judge pointing out in his judgment that "the periodical payment had first to be fixed before an order could be made to secure it and that this was inconsistent with the power to order the immediate securing of prospective periodical payments, which were uncertain in amount and which might hereafter be ordered." The learned judge further referred to the difference which the court had always considered to exist between decrees putting an end to a marriage and decrees which did not do so. "A decree for restitution of conjugal rights," the learned judge added, "must always be made on the assumption that it would some day be obeyed, and the arrangements made were properly tentative and alterable from time to time, whereas, when a marriage was finally declared null or was dissolved, it was more natural that some permanent arrangement should be made."

The Case of Oscar Slater.

By a strange coincidence the wide-spread agitation for the release or reprieve of Sacco and Vanzetti, who were convicted of murder and sentenced to death six years ago in the United States, has been contemporaneous with a renewed attempt in this country to procure an inquiry to be made into the case of Oscar Slater. Such sympathy as has been shown for Sacco and Vanzetti has been, to some extent, due to the long period which has elapsed since their conviction. To the ordinary citizen it has seemed very like a reversion to torture to keep a man for six years in a state of uncertainty whether he would, or would not, have to suffer the ultimate penalty. It shows, no doubt, a grave defect in the judicial procedure of the United States that it should be possible to defer so long the carrying out of a capital sentence. But it is too often forgotten by critics that the prolongation of the period between sentence and execution was, in part, due to the action of the prisoners themselves, whose legal advisers employed every means known to United States' law, in persistent endeavours to procure a re-consideration of the decision reached.

It is impossible—although this seems to have been generally overlooked—to express an opinion of any value upon the innocence or otherwise of the parties without much fuller and more reliable information than has been supplied during the recent agitation against their execution. And to impartial observers any attempt to bring external influences and pressure to bear upon matters connected with the internal administration of justice seemed foredoomed to certain failure.

The case on behalf of Oscar Slater rests upon much firmer grounds—grounds so strong that, but for the fact that there has been already an inquiry—some of the imperfections of which will be mentioned later—it is difficult to see how the claim to an investigation into the whole matter could be resisted. In the little book recently published—"The Truth about Oscar Slater," by William Park, with a foreword by Sir Arthur Conan Doyle—the case for a new and thorough inquiry is stated temperately and with cogency.

To summarise the main facts—on the 21st December, 1908, an old lady, Miss Gilchrist, who with her maid, Helen Lambie, lived in a seven-roomed flat in Glasgow, was cruelly murdered about 7 o'clock in the evening. The maid was out at the time; it was her custom to go out at that hour every evening to buy a newspaper. A Mr. Adams, who with his sister occupied the flat below, hearing a noise on the floor above, ascended the stairs and rang the bell of Miss Gilchrist's flat, but was unable to obtain admittance until some minutes later, when the maid, Lambie, returned with the newspaper and opened the door with her keys. As they entered, a man "of gentlemanly appearance," came out of a bedroom and with a "courteous and pleasant smile" passed through the hall and out of the door of the flat, down the stairs and so into the street.

Immediately after he had left, Miss Gilchrist was found in the dining-room, on the floor, with life nearly extinct, and a few minutes later she expired. The victim's head had been ferociously battered, and the wall and furniture were stained with blood. It appeared, on investigation, that after committing the crime, the murderer went into the bedroom from which he was afterwards seen to emerge, and broke open a box containing papers; the carpet was strewn with papers which had been looked at and rejected. The maid *thought* that a diamond brooch (valued at £50) was missing; but this was, not improbably, a mistake, as there were other articles of jewellery (a diamond ring, two other rings, a gold bracelet, and a gold watch and chain) lying visible and easy to appropriate, besides a good deal of other jewellery which was concealed.

The crime created great indignation and excitement in Glasgow. The police assumed, too readily, that the motive must have been robbery, and they issued a notice on this footing and stated that a diamond brooch had been stolen. It is important to observe, having regard to later events, that one of the police officers engaged in the work of investigation was a detective named Trench, who had a distinguished record. The possibility—if not probability—that the crime was committed by someone known to the victim and that the motive was other than robbery, does not appear to have been sufficiently considered by the police authorities. This possibility is supported (1) by the fact that some document, and not jewellery, appears to have been what the murderer was seeking; (2) by statements made by Lambie at the time and deposed to later by Trench; (3) by the fact that the assailant was not satisfied with making his victim unconscious but battered her until he had killed her—the suggestion being that he knew that she could name him, if she were left alive; (4) by the mode in which access to the flat was obtained. The street door could be opened by Miss Gilchrist by pressing a lever, and it was proved to be her practice when alone, after pressing the lever, to watch at the entrance to the flat who was entering the building, and, if the person was unknown to her, to retreat within and shut the door of her flat before the stairs were ascended; (5) by the fact that Miss Gilchrist appears to have intentionally admitted the visitor to her rooms—there was no trace of any struggle in the hall; she was attacked in the dining-room. It was never suggested that Miss Gilchrist had any knowledge of Slater.

Discarding all other explanations than robbery as the motive for the crime, the police appear to have been absorbed with the idea that the essential clue was to be found in the diamond brooch, supposed by Lambie to be missing; and to this they devoted for the time being almost exclusive attention. The hue and cry for a burglar with a diamond brooch—subsequently shown to be quite futile—had the result of dragging Slater into the case. Slater was a German Jew, who had arrived in Glasgow from London about two months before the tragedy and had taken a flat there; but he had decided to return to New York, where he had lived in earlier years. The police ascertained that in the days immediately following the tragedy, Slater had been offering for sale (quite openly) a pawn-ticket for a diamond brooch, which had been already pawned for £50. The conclusion was arrived at, far too hastily, that this brooch must be the one believed to be missing, and that Slater must be the man who committed the murder. Acting on this view, the police went to Slater's flat on the night of the 25th December—four days after the crime—to arrest him. They found that he had gone, and they learned from the servant-girl he had left at his flat that Slater, and the woman Antoine who lived with him, had left for Liverpool earlier that day. The police thereupon assumed, quite erroneously, that Slater was a fugitive from justice. It appears, however, that Slater had made arrangements for some little time for going to America, and had done so quite openly. He had found people in London to take over his flat and to continue the instalments for the furniture which he had taken under the hire-purchase system. The hour of his departure from Glasgow was timed to fit in with the arrival of the new tenants, and he waited to see them installed before leaving. He visited the Cunard Company's offices and also Cook's, to book passages to New York, and gave his own name and address in Glasgow. He reached Liverpool in the early hours of the 26th December, slept at the North Western Hotel, and entered his name in the hotel register—"Oscar Slater, Glasgow."

Following up the brooch clue, the police traced the shop where Slater had pawned a diamond brooch, and they learned that the brooch was not the one which was supposed to be missing, that the pawned brooch had been bought by Slater for Antoine a considerable time before, and had been pawned by Slater more than a month previous to the tragedy.

At this point, it appears that there was really no evidence against Slater. All attempts to obtain any reliable evidence of identity had failed. Lambie, on the day of the murder,

declared that she had not seen the face of the man who left the flat, and could not identify him; Mr. ADAMS had said much the same. Any description they attempted to give was extremely vague. BARROWMAN—an errand girl, aged fourteen, unconnected with the building—made different, and somewhat contradictory statements concerning a man she had seen in the street on the evening of the tragedy. And it was upon these three persons that any evidence of identity mainly rested. In this connexion it should be mentioned that an official police notice was issued on the 24th December in reference to the description given by the errand girl, BARROWMAN, concerning the man she had seen in the street. The notice was *issued to the police force alone*, and the accused's advisers do not seem to have been aware of its existence at the time of his trial. It stated that—

> "This man [i.e., the man described by BARROWMAN] may have some connexion with the murder, *but he should not be confounded with the man seen to leave the house by the servant and Adams*."

There was thus no evidence of identity, and the brooch theory having broken down, and the object of theft being disproved by the jewellery which had been obvious but left untouched, it is somewhat surprising that the police authorities should have taken the grave step of cabling to New York for the arrest of SLATER on the arrival of the "Lusitania," with the added direction:—

> "Search him and the woman who is his travelling companion for pawn-tickets."

SLATER was accordingly arrested and searched, and a pawn-ticket was found on him, being the very ticket for the diamond brooch which had been shown to have been pawned by SLATER weeks before the tragedy—a brooch which LAMBIE herself acknowledged did not belong to her mistress. It is important to notice that, apart from the suggestion of robbery, which had been disproved rather than established, no motive for the awful crime committed was ever brought home to SLATER. It should also be mentioned that his overcoat and other clothes were examined by experts but no traces of blood were discovered.

ADAMS, LAMBIE and BARROWMAN were taken to New York, to ascertain whether—in spite of their previous statements—they might be able to identify SLATER with the man seen to come from Miss GILCHRIST's flat. On their journey across the Atlantic, LAMBIE and BARROWMAN (who had been strangers to one another) were placed in the same berth; and all three witnesses appear to have been shown a photograph of the accused, before they were shown the accused himself in company with others.

After a preliminary hearing in New York, SLATER expressed his willingness to return to this country for trial. He was accordingly brought over and tried in Edinburgh, and found guilty by the jury, *upon a majority verdict*. The evidence of identity at the trial rested chiefly on the statements of the message-girl, BARROWMAN—(who admitted that she had been shown a photograph of SLATER in the office of Mr. FOX, agent for the Glasgow police authorities)—of the man she had seen in the street. It would appear from what is stated in "The Truth about Oscar Slater" that, at the trial, the police were in possession of facts (unknown to the defence) in the accused's favour—including the issue of the police notice of the 24th December—and that such facts were not brought before the court or jury; in which case, of course, they cannot have been disclosed to counsel. With reference to the part taken by the Lord Advocate, however, the view taken by Mr. PARK and Sir ARTHUR CONAN DOYLE (perhaps not without reason) is that he displayed a warmth of advocacy hardly usual in prosecuting counsel. It would also appear that the accused was handicapped in his defence by poverty.

In 1914, a Commission of Inquiry was held, which supported the decision come to five years previously. The inquiry, however, was obviously unsatisfactory. It appears that the sitting was in private, no shorthand writer allowed, and witnesses were not sworn. Moreover, the conduct of the police was not allowed to be gone into. A matter of the very first importance, however, is the fact that the detective TRENCH, and also a police lawyer named COOKE, gave evidence at the inquiry in favour of the accused. For this noble conduct, it appears from the statements in "The Truth about Oscar Slater" that both TRENCH and COOKE afterwards suffered severely. The statements by TRENCH supported the theory that the criminal was someone known to the family. He asserted that on the night of the murder, LAMBIE had run straightaway to the house of a niece of Miss GILCHRIST, named Miss BURRELL, and had there stated the name of the man whom she had seen to leave the house, and that Miss BURRELL had rebuked her and told her to be careful. Two days after the tragedy, TRENCH, upon instructions from his superiors, went to the house of Miss BURRELL, and he declared that he had obtained from Miss BURRELL confirmation of the fact that LAMBIE had made the accusation referred to. The police stated that they had no recollection of this visit to Miss BURRELL's. But TRENCH's statement that he made this visit is borne out by an entry in his diary for the 23rd December, 1908; nor has any motive been suggested why TRENCH should make his statement if it were not true.

A new witness—the manageress of a restaurant—has come forward, who is prepared to give evidence now on oath that she saw the man who ran away from Miss GILCHRIST's flat after the murder and that such man was not SLATER. It appears that when she saw SLATER's published photograph she declared that he was not the man, and although anxious to avoid publicity, she afterwards visited certain Glasgow solicitors and explained her position (the trial in Edinburgh being then in progress), and a copy of her statement was sent by these solicitors to Edinburgh, but appears to have arrived too late to be of service. Limits of space preclude any attempt in the present article to make an exhaustive summary of the case, or to detail all the points in the accused's favour. What is stated above, however, would seem sufficient to show the reasonableness of the demand that a new and thorough investigation into the whole matter should even now be made.

Some Notes on Judicial and Bar Wigs.

WHILE to the regular habitués of the Law Courts the robes and wigs of judges and barristers are accepted as part and parcel of the machinery of the law, country, and particularly foreign, visitors find in these accessories a subject for a good deal of wonderment. Nevertheless, the use of judicial and bar wigs is merely a survival in the legal profession of what was formerly a universal habit of the upper classes of society. We can never think, for example, of Dr. JOHNSON without his wig, the foretop of which was always badly singed by the candle over which he habitually bent while reading at night. Laymen and ecclesiastics gradually abandoned the use of wigs, but the lawyers retained them as a distinctive badge of their calling, and so they remain to this day both in England and in Scotland. The United States, however, would have nothing to say to judicial wigs when the colonies parted company from the mother country. When the organisation of the Supreme Court of the United States had been settled, and WASHINGTON had selected those who were to sit as its members, the smaller, but not wholly unimportant, question of a court dress became the subject of much debate. Should the justices wear gowns and wigs? JEFFERSON was against any display, but if the gown was to be worn, he said: "For Heaven's sake discard the monstrous wig which makes the English judges look like rats peeping through bunches of oakum." HAMILTON would have accepted the English wig with the

English gown; while AARON BURR was for the English gown but stoutly opposed the "inverted wool sack termed a wig." So the gown was adopted, but not the wig, for the judges of the Supreme Court.

The wig being, as has been said, at one time an almost indispensable part of a gentleman's costume, it was, of course, worn out of doors as well as indoors by laymen and lawyers alike, although probably the "cut" of the legal wig differed somewhat from that in use by other people. Some of the older Scottish judges walked the streets of Edinburgh in their wigs and gowns till a comparatively late date. Lord COCKBURN, whose "Memorials" are a fund of information on all legal and social customs, tells us that Lord GLENLEE, who resigned his office as a judge of the Court of Session in 1840, habitually walked to court in his wig and long cravat, his silk stockings, silver buckles and his cocked hat in his hand, just as Lord President CAMPBELL and Lord President BLAIR had done before him. But while the older Scottish judges were sticklers in the matter of propriety in official costume, members of the Bar were not so fastidious. JEFFREY, who was called to the Scots Bar in 1794, chosen Dean of Faculty in 1829, appointed Lord Advocate the following year, and a judge of the Court of Session in 1834, had a great antipathy to the wig, which he usually discarded while at the Bar. Throughout nearly the whole of the last fifteen or twenty years of his practice, he was conspicuous, and nearly solitary, in his black and bushy hair. Nothing annoyed him so much as being obliged to wear his wig while appearing in Scottish appeals before the House of Lords, and so we find him in one of his letters bemoaning, after a day's attendance there on one occasion, the severity of being obliged to "sit six hours silent, in a wig." Just as Lord GLENLEE was the last Lord of Session who regularly walked to court in full judicial costume, so, we imagine, JEFFERY must have been the last, or one of the last, who appeared professionally in court without the conventional forensic head covering.

Many stories have come down to us of the mishaps which occasionally happened to wigs and their wearers. That which befell WELBORE ELLIS in the House of Commons is familiar to readers of "Wraxall's Historical Memoirs" and is amusing enough. ELLIS, the Treasurer of the Navy, was sitting at the corner of the Treasury bench, a few feet from Lord NORTH, then Prime Minister, when the latter, who was extremely shortsighted, having occasion to go down the House, rose and clasped the scabbard of his sword and carried it in a horizontal direction. ELLIS having stooped at the same instant as Lord NORTH rose, the point of the scabbard came into collision with ELLIS's wig, which it took off and bore away—a ludicrous accident wholly unseen by Lord NORTH himself, who received the first intimation of it by the bursts of laughter from every part of the House. With imperturbable gravity ELLIS recovered and re-adjusted his wig as if nothing had happened. So singular an incident would not, it might be thought, be likely to find a modern parallel, but curiously enough, Lord JAMES OF HEREFORD, then Sir HENRY JAMES, was treated, some thirty odd years ago, very much like WELBORE ELLIS, only in his instance the instrument effecting the unwigging was a pen and not a sword scabbard. It happened thus: Sir HENRY was seated in the front row of the Court of Appeal waiting for his case to be reached, when, leaning back, the tails of his wig were getting into close proximity to the inkpot in the juniors' row. Seeing this, a reporter, with the desire of saving the tails of the wig from being immersed in the ink, took his pen, inserted it cautiously into the loop of the wig and was proceeding to edge it to a safe distance, when, as ill-luck would have it, Sir HENRY jerked his head somewhat abruptly, with the consequence that the pen, still entangled in the loop, twitched the wig right off, to the intense amazement of Sir HENRY, who turned sharply round to see what demoniacal agency had been at work. Hurried explanations were offered and the incident ended happily. An old Scottish judge—Lord COALSTOUN—had a still more ludicrous experience with his wig. Having arrayed himself in his full judicial panoply, he chanced to lean out of his window before starting off to court. It so happened that two little girls who lived in the second floor above—the house, it should be mentioned, was in one of those high "lands" so distinctive of old Edinburgh—were amusing themselves with a kitten, which, in thoughtless sport, they had swung over the window by a cord tied round its middle, and hoisted for some time up and down, till the creature, becoming desperate, landed on the judicial wig. No sooner did the girls perceive the kitten's landing place than, in terror, they began to draw up their pet; but it was too late, for along with it came up also the wig into which the kitten had fastened its claws. His lordship's surprise on finding his wig lifted off his head was greatly increased when, on looking up, he perceived it dangling its way skywards without any means, visible to him, by which its motion might be accounted for. The joke was, of course, ultimately explained and pardoned by the good-natured judge who had been its victim.

As is generally known, judges and King's counsel have two wigs, the ordinary bob wig and the full-bottomed wig which is used only on ceremonial occasions, and when a K.C. is arguing at the Bar of the House of Lords, where its use by him is *de rigueur*. It is said, whether truly or not we do not venture to affirm, that full-bottomed wigs were invented by a French barber for the purpose of concealing an elevation in the shoulder of the DAUPHIN. It seems a far cry from the DAUPHIN OF FRANCE to the ceremonial headgear of English judges and King's counsel, but the vagaries of fashion have at different times been responsible for anomalies quite as striking.

Some Legal Aspects of Town Planning.

BY RANDOLPH A. GLEN, M.A., LL.B.
(*Editor of "Glen's Public Health,"* 1925 *Edition.*)

(*Continued from p.* 659.)

XII.

A recent decision by the Minister of Health under the Town Planning (General Interim Development) Order, 1922, shows that the Minister is averse to the imposition by local authorities of restrictions upon the use of land pending the preparation of schemes when the cost of compensating the owner will be heavy.(1) Messrs. GAZE & SONS, the well-known builders, had purchased a piece of land adjoining Ham Common for the purpose of winning the gravel under the surface. The land was reserved in the Council's Town Planning Scheme for housing purposes, and they refused permission to dig for gravel pending the scheme's approval on the ground that such a use of the land was "for industrial purposes" and so contrary to the proposed reservation. At the local inquiry held by Mr. STEWART, the council and their numerous supporters contended that the amenities of the neighbourhood would be destroyed by such a noisy industry, that the land would be rendered unsightly, and that the site was ideal for residential property of a good class as it adjoined Richmond Park on one side and Ham Common on the other. Latchmere Hospital, at which there were several mentally affected ex-service officers, was quite close, and the effect on such cases would be deplorable. The vibration of heavy machinery, and the continual passage of laden motor lorries to and from the land, would seriously affect the comfort of those living in Wilmer House, which was quite close, and also the fabric of that mansion. That use of the land would also interfere with a proposed new road which the town plan

(1) *In re Gaze & Sons and Ham Urban District Council, Justice of the Peace Journal,* 19th February, 1927, at p. 131, col. (ii).

showed crossing the land. It was urged on behalf of Messrs. Gaze & Sons that the nuisance, if any, would be merely temporary, as the gravel could all be worked out in four or five years, and that, as a penny rate in Ham only produced £80, the cost to the ratepayers of compensating Messrs. Gaze & Sons for depriving them of the right to get the gravel would be out of all proportion to the benefit derived from this restriction. They offered (1) to restrict the time of their operations to hours between 8 a.m. and 5 p.m. on weekdays and 8 a.m. and 12 noon on Saturdays; (2) after removing the gravel from the site, to restore the ground to the level agreed with the council, to cover the ground with 9 inches of top soil, and to sow with grass; and (3) that the land should be reserved in the scheme as an open space. The Minister, in giving his decision, referred to these offers and said that it appeared to him that, "having regard to the character and location of the land in question and the value of the gravel it would not be reasonable or prudent to prohibit the digging" of gravel, and that he considered, therefore, that "permission for the proposed development could not properly be withheld." The next move of the council was to bring an action to restrain Messrs. Gaze & Sons from using for gravel-carting a road across the common, which was the only means of access to and egress from the field in which the gravel lay, on the ground that this was an increase of the burden of the easement, which was "for agricultural purposes only." This action is pending, and whether the courts will prove more sympathetic than the Minister of Health remains to be seen.

An interesting point was raised during the argument of Messrs. Gaze's appeal, but the Minister did not deal with it. It was sought to lessen the force of the compensation point by resorting to the betterment provision in s. 10 (3) of the Act of 1925. The council's contention, which was not accepted by the owners, was that, as the adjoining land would, by reason of the prevention of the nuisance through the scheme, be "increased in value" by the "making of the scheme," a betterment charge could be made. Put algebraically, if the value of certain land is £x, and this value will be reduced to £y by an act which can only be prevented by the making of a town planning scheme prohibiting the act, the value of the land is "increased" by the "making" of the scheme to the extent of £x minus £y. The question is whether "preventing a fall in value" is equivalent to "effecting an increase in value" —a rather knotty point.

The most recent appeal to the Minister of Health under the Order of 1922 was against the refusal of the Esher and Dittons Urban District Council to allow the erection of a petrol station on a part of the Couchmore Estate proposed to be reserved in their preliminary statement for residential purposes.(2) The site was near the junction between the London-Portsmouth road and the new Kingston By-pass, and adjoined Littleworth Common. The council contended that such a station would mar the beauty of the district, that ample facilities for obtaining petrol existed already in the neighbourhood, there being other filling stations a short distance away, and that, if any further facilities were required, they should be provided in the area near the centre of the estate which had been reserved for shops and part of which had been selected for a railway station. They were supported by the Commons and Footpaths Preservation Society, the Scapa Society, and the Council for the Preservation of Rural England, and by local opinion. The letter of the Scapa Society to the Minister urged: "It is a conspicuous corner site at the point where the new Kingston By-pass road enters the Common. Any petrol filling station erected there would inevitably be a great eyesore. The common is a beautiful public open space which ought to be protected from unnecessary disfigurement, and it is notorious that petrol filling stations are rendered unsightly by a medley of bright colours and by the advertisements of petrol conspicuously displayed at such stations. In the opinion of the Society the installation of a station adjoining Littleworth Common would unquestionably cause serious disfigurement." The owner contended that the station had been suitably designed, was not unsightly, would prove an acquisition and a convenience to the residents, and would meet a growing need on the part of the public. The station would be screened from the common by a belt of trees which would be preserved. In the letter of the 2nd February, 1927, announcing the dismissal of the appeal, were these passages: "The Minister understands that the Council propose in connexion with their town planning scheme to make provision for special areas, in which shops business premises and similar buildings may be erected, and not to permit such buildings without restriction in the area generally in which the site under consideration is situate. The Council's proposals in this respect do not appear to the Minister to be unreasonable and he does not consider that sufficient cause has been shown for permitting a departure in respect of the site in question. He sees no reason therefore for overruling the decision of the Council in the matter."

A fitting conclusion to this series will be provided by the following quotation from the speech delivered by the Minister of Health at the dinner of the Town Planning Institute at the Savoy Hotel on the 1st December last, a quotation which was in fact used in support of the Council's case against the petrol station at Littleworth Common:(3) "Even in those rural areas where the main desire of the people is to be let alone (a desire with which I personally sympathise very heartily) it is realised that whether they like it or not they are not going to be left alone and it is up to them to be abreast of the times and by taking such steps as they can to see that the inevitable development which must take place shall be along such lines as will preserve the character of the countryside to which they properly attach so much importance . . . We at the Ministry of Health value very highly the ready and willing assistance we always receive from the Town Planning Institute. And let me say, too, I think they can be of the greatest possible help to the Ministry in the work which still lies before it if they will continue their task of educating public opinion. They have already progressed far in that direction, but there is still a good way to go and, if they can once make the public understand that, in their own interests and in the interests of those who come afterwards, they will do well to avoid what otherwise must occur—the crippling expense of undoing mistakes which ought never to have been made. They must be taught to preserve the countryside which gives so much character to the country and makes it still the best country in the world to live in."

(2) *Re Disney and the Esher and Dittons U.D.C., Justice of the Peace Journal*, 26th February, 1927, p. 150, col. iii. The further details in this article are from information kindly supplied by Mr. L. V. S. Watson, the Clerk and Solicitor to the Council. Photographs and a drawing of the proposed station appeared in a paper called "The Service and Filling Station" for March, 1927.

(3) The Minister's speech, and also that of the Minister of Transport, will be found reported in full in the *Journal of the Town Planning Institute* for January, 1927.

(*Concluded.*)

A Conveyancer's Diary.

Town Planning Resolution not an "Incumbrance": *Re Forsey and Hollebone's Contract*, 71 Sol. J., 492, approved 1927, W.N. 248.

The Court of Appeal have given their approval to the decision of Mr. Justice Eve in *Re Forsey & Hollebone's Contract*, which was reported at 71 Sol. J., 492, and commented upon in these columns, *ante*, pp. 537, 539, 574. This approval was given for the reason indicated by Eve, J., as the first and principal ground upon which his decision was based, namely, that the mere passing of a resolution under the Town Planning Act, 1925, and the registration of a local land charge in respect of the same do not operate to impose on the land any subsisting incumbrance so as to cause a breach of a contract to sell "free from incumbrances."

The Court of Appeal do not seem to have expressed any opinion or made any observation upon the second ground—important and startling that it is—mentioned by Eve, J., namely, that if such a resolution were an incumbrance, "it was one of which the purchaser under s. 198 of the L.P.A., 1925, had notice of a nature which precluded her from refusing to complete the purchase."

Persons Interested for the purpose of L.P.A., 1925, s. 35 (as amended): *Re Hayward*, 1927, W.N. 249.

Section 35 of the L.P.A., 1925, as amended by the L.P. (Amend.) A., 1926, Sched., now reads as follows:—

> For the purposes of this Act land held upon the "statutory trusts" shall be held upon the trusts and subject to the provisions following, namely, upon trust to sell the same and to stand possessed of the net proceeds of sale, after payment of costs, and of the net rents and profits until sale, after payment of rates, taxes, costs of insurance, repairs and other outgoings, upon such trusts and subject to such powers and provisions as may be requisite for giving effect to the rights of the persons (including an incumbrancer of a former undivided share or whose incumbrance is not secured by a legal mortgage) interested in the land.
>
> Where—
>
> (*a*) an undivided share was subject to a settlement, and
>
> (*b*) the settlement remains subsisting in respect of other property, and
>
> (*c*) the trustees thereof are not the same persons as the trustees for sale,
>
> then the statutory trusts include a trust for the trustees for sale to pay the proper proportion of the net proceeds of sale or other capital money attributable to the share to the trustees of the settlement to be held by them as capital money arising under the Settled Land Act, 1925.

Clauson, J., adopting the meaning given by Astbury, J., in *Re Cliff*, 1927, 2 Ch. 94, to the same expression in another context (*i.e.*, for the purposes of L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (4)), held that the words "persons interested" in s. 35, *supra*, were not confined to persons beneficially interested but would include the trustees of a sub-settlement of a share of the rents and profits until sale, and thereafter of the proceeds of sale, of land held upon the statutory trusts. The obligation of persons holding land upon trust for sale in respect of the rents and profits until sale and, after sale, of the proceeds of sale, which are attributable, after payment of outgoings, to a settled share thereof, is to pay them to the trustees of the sub-settlement as long as the trusts of such sub-settlement are subsisting.

It is to be noted that the sub-settlement in *Re Hayward* comprised personalty other than the property in question on the summons. Hence, the case was expressly covered by the latter part of s. 35, *supra*, which embodies the 1926 amendment.

An interesting point appears from the facts of the case as reported. Before 1926 the land was, in effect, divided into three shares, each of these shares being vested in the same persons as trustees upon three different trusts. It appears that by an order of the court dated in 1927 the two trustees and another person had been appointed statutory trustees of the entirety—the order being made on the assumption that the entirety of the land had vested in the Public Trustee (and not in the sub-settlements trustees, who were trustees of all the shares) under Pt. IV of the 1st Sched. to the L.P.A., 1925.

The view consistently followed in our "Points in Practice" column seems thus to have been taken and acted upon by the court in the framing of orders.

The attention of the Legal Profession is called to the fact that the PHŒNIX ASSURANCE COMPANY Ltd., Phœnix House, King William Street, London, E.C.4 (transacting ALL CLASSES OF INSURANCE BUSINESS), invites proposals for Fidelity Guarantee and Court Bonds, Loans on Reversions and Life Interests. Branch Offices at Byron House, 7, St. James's Street, S.W.1; 187, Fleet Street, E.C.4; 20-22, Lincoln's Inn Fields, W.C.2; and throughout the country.

Landlord and Tenant Notebook.

Yearly Tenant's Liability for Waste, and Breach of Implied Obligations to use and yield up Premises in Tenant-like Manner and Condition.

A somewhat unusual case, with regard to the liability of a tenant for waste, was recently heard by the Court of Appeal (*Marsden* v. *Edward Heyes Ltd.*, 1927, 2 K.B. 1).

In that case the defendants were at all material times tenants from year to year of a dwelling-house and shop. In 1914, the reversion of the premises vested in the plaintiff, and in the same year the defendants removed a partition wall, staircase and fireplace and converted the ground floor into one large shop and the first floor into a loft approached by a ladder in place of the staircase, and had thereby entirely altered the character of the premises. In 1923 the defendants assigned their tenancy. Subsequently in 1925, the plaintiff brought an action against the defendants claiming damages for waste and for breach of implied obligations to use the premises in a tenant-like and proper manner and to deliver them up at the end of the term in the same condition as they were in at the commencement of the term. The defendants however contended that even if there had been waste or breach of the alleged implied obligations, the action was statute barred, since the action was not brought until 1925, more than six years after the commission of the acts in question.

The liability of a tenant for waste is not founded on the common law, but is a statutory liability, founded on the ancient statute of Marlbridge, which was passed in the reign of Henry III, and it has been held that a tenant not only for a term of years but also from year to year is liable for waste under these statutes, and this, moreover, appears to be a liability which the tenant cannot avoid by a subsequent assignment of the term. (See "Coke's Institutes," 2nd Pt., Vol. I, f. 302; *Ferguson* v. *Anon.*, 2 Esp. 590.) Even a tenant holding over after a notice to quit has expired is liable for waste: *Burchell* v. *Hornsley*, 1808, 1 Camp. 360.

Whether the tenant is liable for voluntary waste or whether this liability extends to permissive waste as well is not quite clear, though the better opinion appears to be that the tenant's liability is to be confined only to voluntary waste.

Primâ facie therefore the defendants in *Marsden* v. *Edward Heyes Ltd.* were clearly liable for the acts in question, if they did in fact amount to a waste, a liability which it is submitted they could not have avoided by the assignment of their interest in the premises. The Court of Appeal were unanimously of opinion that the acts in question amounted to waste, but they did not consider the question as to the effect of the assignment in so far as the liability for waste was concerned.

Voluntary waste may, of course, take various forms, and the *test* in order to determine the particular kind of voluntary waste which was alleged to have been committed in *Marsden* v. *Edward Heyes Ltd.* would appear to depend on *whether the nature of the demised premises had been changed by the acts in question, due regard being paid to the user of the demised premises which was permissible under the lease* (see per Lord Loreburn, L.C., in *Hyman* v. *Rose*, 1912, A.C., at p. 633).

In *Marsden* v. *Edward Heyes Ltd.* the alterations that had been effected clearly altered the nature of the premises, since what was previously a dwelling-house and shop had been converted into premises which could only be used for business purposes.

Apart from waste, it would seem, as the Court of Appeal in fact held, that the defendants were under an implied obligation to use the premises in a tenant-like manner and to deliver them up at the end of the term in a state similar or reasonably similar to that in which the premises were at the commencement of the term, fair wear and tear being excepted.

The precise extent of this implied obligation on the part of a tenant from year to year cannot perhaps be defined, and it may depend, as Atkin, L.J., pointed out in *Marsden's Case* on the relation between the parties, the character and state of the demised premises and other varying circumstances.

It has been held, however, that a tenant from year to year, while not bound to make general repairs, is under the obligation to use the premises in a tenant-like manner: *Horsefall* v. *Mather* (Holt, at p. 9), and if he is a tenant of agricultural land to use and cultivate the land in a husband-like manner: *Wedd* v. *Porter*, 1916, 2 K.B. 91.

As to the extent of the tenant from year to year's implied obligation to repair, this amounts at any rate to keep the premises wind and watertight: *Auworth* v. *Johnson*, 1832, 5 C. & P. 239; *Wedd* v. *Porter*, *supra*.

A corresponding obligation would seem to be imposed on the tenant from year to year to deliver up the premises at the end of the term in a similar condition to that in which they were at the commencement of the tenancy (fair wear and tear excepted), but even if this obligation was not so extensive, the tenant would appear clearly to be bound to yield up premises of the same character. As Bankes, L.J., put it (1927, 2 K.B., at p. 6), "a tenant who takes a dwelling-house cannot at the end of the tenancy yield up a storehouse, or a stable or cowhouse, however elaborately constructed." So again, Scrutton, L.J., said (at p. 7): "To use premises in a tenant-like manner means at any rate that a tenant will not make structural alterations in the premises as will change their character."

Effect of the Statutes of Limitation.

There can be no question, therefore, that the defendants in *Marsden's Case* had been guilty not only of waste, but also of breaches of implied obligations with regard to the repair of the premises, and it remains to consider the effect of the Statute of Limitations.

Acts of voluntary waste would appear to be of a tortious character. Thus, where waste has been caused by the cutting of timber, an action has been maintainable for trover or for money had and received, where the timber has been sold (the tort in the latter case being waived), and such actions have been held to be barred within six years (cf., for example, *Seagram* v. *Knight*, L.R. 2 Ch. App. at p. 632). It seems, therefore, that in so far as the plaintiff's action in *Marsden's Case* was an action for waste, that action would have been barred. The Court of Appeal, however, did not consider this point necessary for their determination, since as there had been in their opinion at any rate a breach on the part of the tenant to use the premises in a tenant-like manner and to do such repairs as were necessary to keep the premises in that condition, time never began to run effectively against the plaintiff, since the breach or breaches (of the implied repairing covenant) were of a continuing nature: cf. *Spoor* v. *Green*, L.R. 9 Ex. 99.

The Court of Appeal accordingly held the plaintiff to be entitled to recover damages from the defendant on the above ground in respect of the unlawful conversion of the premises.

Reviews.

Key & Elphinstone's Compendium of Precedents in Conveyancing. Twelfth Edition. Vol. II., Part II. By Frederick Trentham Maw and Howard Wade Renshaw. London: Sweet & Maxwell, Ltd. 1927. pp. xxiii–cxxxvii and 453-1088. £5 15s. 6d. net (Two volumes).

This, the last, portion of "Key and Elphinstone," deals with, amongst other subjects, Releases, Separation Deeds, Settlements (Personal), Settlements (Real), Vesting Deeds and Wills. In other words, the field covered is that which has been most thoroughly changed by the 1922-1926 legislation, and which in consequence is the most difficult properly to survey. The learned editors are to be heartily congratulated on the successful issue attending their labours.

The forms and precedents seem to cover an extensive, useful and representative area. The preliminary notes serve their purpose as instructive and helpful introductions into the subject-matter of sections. And the practice notes have been prepared with great care: many of them (to mention only one example, Note (a) on p. 563 on the wife's covenant to settle after-acquired property) being manifestly the product of very considerable labour. Inaccuracies are conspicuous by their absence from this part.

Note may be made of one or two minor points of interest. In discussing the range of application of the Trustee Act, 1925, s. 5, it is stated on the authority of *Re Tattersall*, 1906, 2 Ch. 399, that sub-s. (4) of that section (authorising investment in nominal debentures or stock under the Local Loans Act, 1875), only applies to the enlargement of express powers of investment in debentures or debenture stock, and the view is expressed that "with the exception of sub-s. (1) (*a*) and (*b*) the powers conferred by the section are qualified or conditional." It certainly is to be hoped that the courts, if occasion arises, will not give to the expression "real securities" in sub-s. (1) or in any of the other sub-sections the restricted meaning given to it in *Re Tattersall*; cf. 2 "Wolstenholme & Cherry," pp. 351, 352, where the opinion is expressed that *Re Tattersall* is open for re-consideration.

On p. 760 (Note (c)) a discussion as to the effect of the Law of Property Act, 1925, s. 175, on the decision in *Re Abrahams* 1911, 1 Ch. 108, would have been welcome.

This part contains Tables of Cases and Statutes, three pages of *Addenda et Corrigenda*—almost all to Pt. I—and an adequate index.

Arthur Curti, Englands Privat- und Handelsrecht. 1927. pp. xvi and 247. Springer, Berlin.

This is the first volume of a concise and very useful treatise on what the author describes as "English Private and Commercial Law." The book deals with the law of personal status and family law, with the law of property, real and personal, and with the law of inheritance. The second volume will be devoted to the law of contract and tort, and to commercial law proper.

The treatise begins, very appropriately, with a short introduction on the sources of English law and on English legal literature. In Part I, Dr. Curti deals, in separate chapters, with capacity for being a subject of rights and for performing legal acts, and also with nationality and domicile. Part II covers such questions as capacity to contract marriage, celebration of marriage, restitution of conjugal rights, judicial separations, divorce, justification of marriage and nullity declarations. There follow sections on rights and duties arising out of marriage, and on the relations of children, parents and guardians.

The bulk of the treatise is devoted to the law of property. After a general presentation of the modes and forms of acquiring real property—tenures, estates, reversion and remainder, co-ownership—the author discusses legal estates and interest, and, finally, equitable interests. Chapters on acquisition and loss of immovable property, on the land register and land charges register, on movable property and choses in action conclude Part III. Part IV covers the law of inheritance in its entirety.

The continental lawyer—especially the practitioner—will turn with confidence to this lucid and thoroughly up-to-date text-book which presents to him in a familiar form a system of law fundamentally different from his own. If a word of criticism may be ventured, it is this, that the author omits almost entirely any reference to case law. There are references, in the bibliographies preceding each section, to leading text-books and to statutes, but no mention is made either here or in the footnotes of leading cases. It is to be regretted

that foreign readers may thus be led to misunderstand the peculiar feature of English law. However, this is the only serious criticism of an otherwise excellent treatise.

There is in this book a welcome absence of mistakes in the spelling of the frequent English quotations and technical terms.

Correspondence.

Arrestment on the Dependence.

Sir,—I do not wish to burden your columns with another long letter on this subject, but I feel that a reply to your contributor's letter in your issue of the 13th August would not be out of place.

I am afraid that I still think that it would have been better to have followed the example of one of your contemporaries, and to have postponed discussion of the merits of this subject until after the Committee has reported. However this may be, at the same time I quite admit that the editor of every periodical is free to frame his own policy in this respect.

Your contributor's chief ground for joining issue with those who desire change in the procedure seems to be that what always has been the practice should always remain the practice; in other words he is a "diehard." But it is constantly said that the law of England, which includes the practice, adapts itself from time to time to the changing circumstances arising from new conditions. Undoubtedly conditions are now different from what they were.

Unfortunately the general experience seems to be that the commercial morality of many members of the commercial community abroad does not stand at such a high standard as it used to. English business men have suffered from this, and quite justly ask for such remedies as it is possible for the procedure of the English Courts to give them.

I quite agree that the process of arrest whether in Scotland or all the other countries where it prevails (and since I wrote my letter which appeared in your issue of the 6th August, I have obtained information about the law of many other countries, including the Channel Islands, and I can now say that almost without exception all other countries have this procedure) is not limited to foreigners. But in most countries I find it is not granted as a matter of course against defendants residing in the jurisdiction, but almost invariably as a matter of course against foreigners.

I am afraid that extending the procedure under Order XIV would not meet the case, because Order XIV does not apply to claims for damages for breach of contract or for tort, and therefore a great number of claims would necessarily be excluded. Why should a foreign defendant be better off when there is a claim for damages against him than on a claim, for instance, for goods sold?

I quite agree that the Scottish process is not a development following upon the abolition of arrestment of the person, which has nothing to do with it. My point was that it hardly lies in the mouth of English lawyers to glory in the freedom in the past from arrest of a defendant's goods before judgment, when the barbarous process of personal arrest prevailed until quite late in the nineteenth century. Indeed, this barbaric process still prevails to a certain extent under the legal fiction of imprisonment for contempt of court on refusal to pay a judgment debt.

As regards your contributor's remarks about the case of the Société du Gaz du Paris, I still maintain that this case shows that the protection afforded by the Scottish plea of *forum non conveniens* is an ample safeguard to a defendant. Your contributor says that it did not afford the defendants very much relief from a considerable delay extending over a year and extra judicial costs. As a matter of fact, in this particular case, I speak from personal knowledge. The defendants had little trouble and, so far as I know, not many extra judicial costs; but in any case is not this rather an argument against litigation generally rather than an argument against any particular process? Anyone who can afford the stamp is free to issue a writ against any defendant. However bad the plaintiff's case, an entirely innocent defendant can be given great trouble and unrecoverable expense, yet this has never been accepted as an argument for abolishing litigation.

Your contributor says that practitioners, in countries where the process of arrest is in existence, use it sparingly. I do not know on what grounds he makes this statement. My experience has been that it is by no means sparingly used, especially against foreigners.

I am informed on very good authority that the average number per annum of arrestments on dependence in the Sheriff Court of Glasgow is 370, and this is only one of the courts of Scotland, albeit one of the most important.

In countries such as the United States, or Germany, or France, there must be many thousands in a year, though I do not think there are any means of ascertaining the exact number.

As a matter of interest, I may mention that since the appearance of my letter in THE SOLICITORS' JOURNAL for the 6th August, I have found that a similar process exists in the Channel Islands. Nevertheless we hear constantly of people going to reside in the Channel Islands to escape taxation in England. The existence of this procedure does not seem to deter them.

Finally, with regard to the concluding paragraph of your contributor's letter, foreign traders who observe their obligations have nothing to fear; that, presumably, is why they do not object to the existence of such procedure in all other countries. Those who would object to this procedure are those who do not intend to carry out their obligations. Probably the perpetrators of long firm frauds would strongly object to such an alteration in the English procedure.

I think that now the subject has been sufficiently ventilated in your pages, and those who object to the suggested alteration in our procedure will no doubt be able to express their views as witnesses before the committee, if they desire to do so.

London, E.C.3, 22nd August. EDWARD G. ROSCOE.

Obituary.

MR. H. SHARPLEY.

Mr. Herbert Sharpley (a member of the firm of Messrs. Sharpley & Son), formerly Town Clerk of Louth, died at Mablethorpe, on the 12th inst., aged seventy-one. Admitted in 1877, he was elected coroner for the Parts of Lindsey, Lincolnshire, in January, 1904, appointed clerk to the, Mablethorpe and Sutton Urban District Council in 1911, and Town Clerk of Louth in 1913, retiring in 1926. He was elected Mayor of Louth in 1908. He was a Commissioner of Sewers, County Magistrate, a Governor of the Louth Grammar Schools and Churchwarden of Holy Trinity Church, Louth, from 1879 to 1905. He took an active interest in the management of local schools, and was a Trustee of the Louth Savings Bank. Mr. Sharpley was a member of The Law Society.

"CARELESS" PEDESTRIANS.

A London motorist, who was fined £5 at Brighton for driving a car in a dangerous manner, expressed the hope that the time would come when motorists could take out cross-summonses against careless pedestrians. It was stated that the defendant, while driving near the Aquarium at a speed of nearly twenty-five miles an hour, knocked down a man, and a large crowd who witnessed the occurrence became so hostile that for the defendant's own safety he was advised by a policeman to go in the company of another policeman to the police-station, which he did. He told the Bench that he lost his nerve, and was sorry for what had happened.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers are invited and will be answered by some of the most eminent authorities of the day. All questions should be addressed to—The Assistant Editor, "The Solicitors' Journal," 94-97, Fetter Lane, E.C.4, be typewritten on one side of paper only, and be in triplicate. Each copy to contain the name and address of the subscriber. To meet the convenience of Subscribers, in matters requiring urgent attention, answers will be forwarded by post if a stamped addressed envelope is enclosed.

UNDIVIDED SHARES—DEATH OF ONE TENANT—TITLE.

912. *Q.* Freehold property was conveyed before 1926 to A and B as tenants in common. A recently died, having made a will giving everything to the other and appointing him sole executor. Is any assent or other document necessary to vest the whole of the property in B as beneficial owner ?

A. A and B were trustees for sale by virtue of the L.P.A., 1926, 1st Sched., Pt. IV, para. 1 (2). B is, therefore, surviving trustee for sale, and can only make title as such and give receipt if he appoints a co-trustee. But, if he can show that the whole equity is vested in him, the situation discussed in the answer to *Q.* 244, p. 541, vol. 70, will arise, and a purchaser can take conveyance from him on his beneficial owner covenants. He can only do this, however, by disclosing the equitable title and producing the probate of the will.

COPYHOLD—DEATH OF TENANT IN 1926—FINE—LIABILITY FOR PAYMENT—RIGHT TO COMPENSATION AGREEMENT.

913. *Q.* B was admitted tenant of a certain manor in 1889 and died in May, 1926. His personal representatives wish to extinguish the manorial incidents and rights reserved by the L.P.A., 1922. The steward claims that before entering into a compensation agreement, the personal representatives must pay a fine and fees as on an admission on the death of B, contending that by s. 128 (2), the property and the persons for the time being entitled to it remain liable until extinguishment for all manorial incidents (including fine and fees) as if the land had not been enfranchised under the Act. The solicitors for the personal representatives contest this claim on the ground that the property has become vested in them by operation of law and not by an "assurance," and until they execute a conveyance or assent there can be no transaction or assurance within the meaning of s. 129. The answers given by Sir Benjamin Cherry to questions reported in THE SOLICITORS' JOURNAL of 14th November, 1925 (pp. 95 and 96), suggest that the fine and fees as on a death are payable on production of an assurance or when a compensation agreement is entered into. Your opinion is requested as to whether the claim of the steward is correct, seeing there was a tenant on the rolls on 31st December, 1925, and his personal representatives have not made any conveyance or assent.

A. Section 128 (2) (*b*) saves the fine on the death. It is arguable that, since the probate at least perfects the executors' title, the grant of it from the probate authority is a "transaction" within s. 129 (2); assuming against the lord, however, that it is not so, and that the fine cannot be recovered under that sub-section, it is at least recoverable as a simple contract debt under s. 130 (5). It seems reasonable, therefore, for the lord to stipulate that the tenant should pay his debt before exacting his right to make the lord enter into the compensation agreement.

UNDIVIDED SHARES—DEATH OF ONE TENANT—TITLE.

914. *Q.* In 1893 A and B (husband and wife) purchased a freehold house which was conveyed to them as tenants in common in equal shares. The wife, B, died this year, having by her will appointed X sole executor thereof, and devised the residue of her estate (which included her half share in the house above mentioned) to her husband, A, for his life, and after his death, the same to be divided between her children, Y and Z, by her prior marriage, who are both of full age. The will has been proved by X. What steps must be taken to enable the house to be sold and to give a good title thereto to a purchaser ?

A. On 1st January, 1926, by virtue of the L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (2), A and B became trustees for sale of the property. A is therefore surviving trustee for sale, and the only necessary step for him to give good title is that he should appoint a co-trustee or trustees in place of B, so that proper receipt can be given to a purchaser under s. 14 of the T.A., 1925, and s. 27 (2) of the L.P.A., 1925, as amended by the L.P. (Am.) A, 1926, Sched.

ESTATE BY CURTESY—GAVELKIND—SALE—TITLE.

915. *Q.* J.S.T., a married woman, died intestate on the 23rd December, 1922, leaving a husband, J.H.T., and three sons H.G.T., R.E.T., and L.A.T., and two daughters surviving. At her death J.S.T. was solely seised of a freehold house in Kent. Letters of Administration were granted to J.H.T., the husband on the 7th February, 1923. J.H.T., H.G.T., R.E.T. and L.A.T. are still alive and all desire to sell the house in question, which was mortgaged by the late J.S.T., and still remains in mortgage. All the sons are of age. The remainder of the estate has been administered. Owing to the custom of gavelkind prevailing in Kent, the husband, J.H.T., is entitled to a life interest in a moiety of the house and the three sons are entitled to a moiety of the house absolutely and the other moiety of the house subject to the husband's life estate by curtesy. How should the proposed sale be carried out ? Is the whole of the house to be treated as settled land and a vesting deed executed in favour of the husband by himself as personal representative, who will after appointing two trustees to receive the purchase money, convey the whole of the property, or how otherwise is the property to be conveyed. One of the sons is permanently resident abroad ?

A. Only a moiety of the land is held in succession, and, since an undivided share of land is not "land" within the S.L.A., 1925 (see s. 117 (1) (ix)) the premises are not settled land within the Act. Since the father is not entitled absolutely to his undivided share, but only for life, the opinion is here given that the L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (2) is not applicable, and para. 1 (4) has applied to vest the property in the Public Trustee, from whom it may be divested by the appointment of new trustees for sale—themselves, if they please—by the father and the two sons at home, under para. 1 (4) (iii), see amendment in L.P. (Amend.) A, 1926, Sched. In the above answer it is assumed that, by the distribution of rents and profits beneficially or otherwise, the implied assent of the husband as administrator to the descent of the estate would have been presumed on 31st December, 1925, in accordance with the doctrine of *Wise* v. *Whitburn*, 1924, 1 Ch. 460. It is also assumed that all the sons were of age at the above date.

STATUTORY NOTICES—PRE-1926 DEEDS—L.P.A., 1925, s. 196.

916. *Q.* I am somewhat puzzled as to the position with regard to the mode of serving notices required under deeds dated prior to 1st January, 1926, e.g., a notice calling in a mortgage dated prior to that date. The L.P.A., 1925, s. 196, repeats the provisions of s. 67 of the C.A., 1881, but sub-s. (5) of the former section appears to limit the provisions to notices under deeds dated since 1st January, 1926. Seeing, therefore, that s. 67 of the C.A. is repealed by the L.P.A., what now governs the service of notices required under deeds dated prior to 1st January, 1926 ? If my memory does not play me false, service by registered post was not good prior to the C.A., and it seems to me that the new legislation has restored

the pre-1881 position, with respect to deeds dated prior to the 1st January, 1926 ?

A. Sub-section (5) only cuts down the operation of s. 196 by allowing parties to post-1925 instruments to "contract out" of the section. The suggested construction would be reading "shall extend" in the sub-section, "shall extend only," which, in view of the inconveniences which would arise if the provision in the C.A., 1881, were repealed or not re-enacted, for pre-1926 deeds obviously is not meant. The new sub-section marks an improvement on the old law by enabling parties, for reasons they may deem good, to exclude the statutory provision from affecting their arrangements. The notice mentioned in s. 103 (i) applies, of course, to pre-1926 mortgages.

CONTRACT FOR SALE BY EXECUTORS AS SUCH—DEATH OF EXECUTORS—TITLE.

917. *Q.* By a contract dated 9th April, 1927, A.B. contracted to sell five leasehold houses as executor of the will of S.S., deceased. A.B. was in fact the survivor of two executors, both having proved their testator's will in 1912, mortgaged the property in 1914, which mortgage was redeemed in 1924. Presumably no assent to the bequest in the will could safely be inferred in these circumstances. Before the assignment was engrossed, A.B. died, and the question has now arisen as to who can convey. The terms of the testator's (S.S.) will are that the residue of his estate was given to his executors upon trust to sell and divide net proceeds among his four children in equal shares. The property forms part of such residue. We are now informed that two of the testator's children are dead. Also that A.B. left a will but omitted to appoint an executor, administration (with the will annexed) is being granted to his widow, "and that the chain of representation (A.E.A., 1925, s. 7) has therefore been broken," consequently an appointment of new trustees of S.S.'s will must be made and application for a special grant obtained by such new trustees. We contend that no grant of special representation is necessary, as the land is not settled by the will of S.S., and that the widow of A.B. (as personal representative of the surviving trustee of S.S.) can under s. 36 of the Trustee Act appoint new trustees to convey to the purchaser, in exercise of the trust for sale.

Will you please say if our contention is sound, and the purchaser will be safe in accepting an assignment from the new trustees in exercise of such trust for sale ? Also that the appointment must be by the widow of A.B. and not by the surviving children of S.S. ?

A. A court would certainly not infer assent against an executor who had contracted to sell as such, unless the evidence otherwise was irresistible, and the contract must be carried out on the footing that no assent was made either before or after 9th April, 1927. Accordingly, the only person who can sell is the personal representative of S.S., and someone must therefore take the ordinary grant "*de bonis non*" in respect of his estate. When this is done he can and must carry out the contract. The trust for sale could not, of course, be exercised unless and until the property, by assent express or implied, from the executors, was vested in the trustees as such.

WILL—GIFT OF ANNUITY—FOR LIFE OR PERPETUAL—CONSTRUCTION.

918. *Q.* A testatrix (who died several years ago) by her home-made will, after appointing an executor and making certain specific and pecuniary legacies, gave "the remainder of my property to my said executor who shall pay to my sister A four pounds quarterly and to my brother J three pounds quarterly." No provision was made for the death of either legatee. There is still a considerable sum in the hands of the executor. J is just deceased, and I feel a difficulty in advising the executor how to deal with that portion representing J's share, which I take to be three-sevenths of the whole. Can it be safely paid to J's personal representatives ?

A. Subject to the observation that a will cannot be reliably construed without sight of it as a whole, there is nothing in the extract given to rebut the ordinary presumption that the annuities to A and J were for life only. On the face of it there is an intestacy as to residue, which the executor therefore holds, subject to the annuities, upon trust for the next of kin. The executor must pay J's personal representative the apportioned fraction of his annuity to his death, and, subject to retaining sufficient for A's annuity, distribute accordingly.

VENDOR AND PURCHASER—APPORTIONMENT—OUTGOINGS—INSURANCE PREMIUM.

919. *Q.* In September, 1926, A agreed to buy Whiteacre (a freehold property) from B. Completion was to be on 24th June, 1927, when possession was to be given to A. A proper contract was to be drawn up, and this was done and contracts exchanged on 17th June, 1927. The contract embodied the General Conditions of 1925. On 12th June B delivered an abstract and on the 14th A delivered requisitions asking (*inter alia*) for particulars of fire insurance and if B would hold the policies upon trust for A upon A's paying a proportionate part of the insurance premium. On the 16th June B replied giving particulars of the insurance premium and saying that he would hold the policies on trust for A. B now contends that as the property was at A's risk from September, 1926, to completion, that A should pay a proportionate part of the premiums from September, and alleges a custom of the solicitors' profession to so apportion insurance premiums. A denies such custom, and says :—

(1) That he was not informed of the insurance before 16th June ;

(2) That the insurance company was not informed of the purchase ;

(3) That if he had been informed he would have reduced the insurance, as it was only the land and not the buildings which were valuable to him ; and

(4) That the words "all rates, taxes and *other outgoings*," which under clause 5 (3) of the General Conditions have to be apportioned on the date for completion, include fire insurance premiums.

It appears to us that s. 47 of the L.P.A., 1925, is inapplicable as it only deals with the matter in the event of a fire having taken place, and that clause 23 of the General Conditions is also inapplicable. If A's contention is correct, it would seem nevertheless that if a fire had occurred he could have claimed the insurance moneys from B. Will you please let us know which, in your opinion, is the correct view herein. Do you consider that the General Conditions need amending as regards fire insurance ? If so, what would you suggest ?

A. The reasoning above would have substance if the matter were *res integra*, but it does appear to be the practice that the insurance premium is apportioned as from the date of the contract, see "Willoughby's Apportionments on Completion," pp. 100-1, and this practice is in effect recognised in the L.P.A., 1925, s. 47. In the face of this section it would be illogical for the vendor to pay a premium in respect of which he could not possibly obtain any benefit, and therefore no doubt a judge would hold that a purchaser should pay as from the date of contract. As Mr. Willoughby points out on p. 100, in a freehold at least, the premium is not an "outgoing." As to the judicial recognition of the practice of the profession, see *Howard* v. *Ducane*, 1823, 1 T. & R. 81, at pp. 86-7.

SETTLED LAND—APPOINTMENT OF NEW TRUSTEE FOR PURPOSES OF ACTS—PROCEDURE.

920. *Q.* A, who died in 1923, made his will, whereby after appointing B and C the executors and trustees of his will, devised and bequeathed the whole of his real and personal estate unto his trustees to be held by them in trust to apply the income derived therefrom for the benefit of his wife, D, during her life, and at her death, the income to be applied

for the benefit of B for life, and after her death, to E absolutely. There is no power of appointment given under the will to D to appoint new trustees. The testator on his death was possessed of both realty and personalty. During the year C has been very ill, and it is the intention of all parties concerned to have a new trustee appointed. The tenant for life, D, is rather an awkward person, and no vesting deed has been executed. We should be pleased if you could answer the following points :—

(1) Has the tenant for life, D, any power to appoint a new trustee seeing such power was not given to her by the will ?

(2) If she has no power, is it necessary to join her in the appointment of new trustees ?

(3) Before an appointment of new trustees, is it essential that a vesting deed should be executed in favour of the tenant for life, D : see s. 35 T.A., 1925 ?

(4) As the property is vested in the continuing trustee, will it be necessary to insert a vesting declaration vesting the property in the new trustee or is it vested in him automatically ?

(5) We presume it is not necessary to have more than one deed in appointing two trustees.

We intend following Precedent No. XVIII in the present edition of "Key and Elphinstone," vol. I, Pt. I, p. 155, which we presume will be in order.

A. (1) No. In the absence of an express donee, the power is vested in the continuing trustee, B, under ss. 36 (1) and 64 (1) of the T.A., 1925 (B and C are trustees for the purposes of the S.L.A., 1925, by virtue of s. 30 (3)).

(2) No.

(3) No. On the contrary, it has previously been advised that the appointment of a new trustee should preferably precede the vesting deed : see answer to *Q.* 269, p. 600, vol. 70.

(4) The property is not vested in the continuing trustees, but is, and will continue to be, vested in the tenant for life under the L.P.A., 1925, 1st Sched., Pt. II, paras. 3 and 6 (*c*).

(5) It is not necessary.

The precedent mentioned does not fit this case if D has no special power of appointment. It is also to be noted that B and C were not trustees for the purposes of the S.L.A., 1882 to 1890. In addition to being appointed trustee for the purposes of the S.L.A., 1925, the new trustee can, of course, also be appointed ordinary trustee for the general purposes of the will if C retires.

RESTRICTIVE COVENANTS—ENTRY UNDER L.C.A., 1925 —SEARCH.

921. *Q.* On the 20th January, 1926, A sells a freehold plot of land to B, who enters into restrictive covenants which are registered under Class D of the L.C.A., 1925. Subsequently the property changes hands on several occasions, and on the 1st January, 1927, we are instructed to act on behalf of Y, who is proposing to purchase the land from X who is the owner at that time. Notice of the covenants entered into by B on the original purchase appear in the abstract, but on making a search against X, no entries appear. Will you please state :—

(1) Against whom search should be made when acting for Y ?

(2) Assuming that, as a result of the search against X, no entries are disclosed, will Y be bound by the restrictive covenants originally entered into by B ?

A. No doubt the covenants were registered against B, as estate owner, under the L.C.A., 1925, s. 10 (2), and therefore bind both X as B's assign, and X's assigns, all affected by express notice : see L.P.A., 1925, s. 198 (1). Searches should strictly be made against all successive estate owners, unless a certificate under s. 17 is produced, see sub.-s. (3).

VALUATIONS FOR INSURANCE.—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS LIMITED**), 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, urniture, works of art, bric-à-brac a speciality

House of Lords.

Jones *v.* South West Lancashire Coalowners' Association.

12th July.

INCOME TAX—ASSOCIATION OF COMPANIES FOR MUTUAL INSURANCE—MUTUAL PAYMENTS—DEDUCTION OF SUMS PAID FOR INSURANCE—SURPLUS OF RECEIPTS OVER EXPENDITURE.

An association of companies for mutual insurance which has for its sole effective purpose the indemnity of its members against liability for compensation, is not assessable to income tax in respect of the surplus of premiums over expenditure as being profits of a trade or business.

New York Life Insurance Co. *v.* Styles, 14 App. Cas. 381, *followed.*

The respondent association, as the Commissioners had found, had for its sole effective purpose, the indemnity of its members who were all coalowners, against liability for compensation in respect of fatal accidents to workmen in their employment. The association was a purely mutual concern, every person indemnified being a member and every member being indemnified. A fund was established by means of ordinary calls upon the members. Out of that fund the members were indemnified against claims for compensation and at the end of each year the surplus of the fund over the expenditure and liabilities was carried to a reserve fund which, at the date of the assessment, exceeded £150,000. The association had paid income tax on the income from its investments representing the reserve fund, and as to that no question arose. The association having been assessed to income tax under Case I of Sched. D, appealed to the Special Commissioners on the ground that it was a purely mutual concern, and was not carrying on any trade from which profits liable to income tax arose. The Commissioners discharged the assessment, and that decision was affirmed first by Rowlatt, J., and then by the Court of Appeal.

The LORD CHANCELLOR, in delivering judgment, said that when a question of law had been clearly decided by that House it was undesirable that the decision should be weakened or frittered away by fine distinctions. It appeared to him that the decision of the House in the case of *New York Life Insurance Company* v. *Styles*, 14 App. Cas. 381, completely covered this case. Counsel for the appellant contended that the present case was distinguishable from it on the ground that whereas the company there in question returned to its participating policy-holders the surplus of its receipts over expenditure at the end of each year, the articles of the respondent association required that surplus to be carried to a reserve fund. He did not think that that was a sound distinction. In both cases there were no shareholders interested and the whole of the surplus remained to the credit of the members, and must either be applied to meeting their future claims or be returned to them on retirement. Sooner or later the whole of the company's receipts must go back to the policy holders as a class, though not precisely in the proportions in which they had contributed to them. The association did not in any true sense make a profit out of their contributions. It was argued that that view gave no effect to the well established distinction between a company and its members, and that, although the members might make no profit, a profit might still accrue to the company. The same point arose in the *New York Life Insurance Case*, and was disposed of in the speeches of Lord Herschell and Lord Macnaghten. Lord Herschell there said : "I think the Attorney-General was correct in thinking it immaterial that the persons thus associated had been incorporated and that a legal entity had been created distinct from the members of which it was composed. This being so, I shall for the sake of simplicity, consider the questions that arise as though the association

were unincorporated." It appeared to him (the Lord Chancellor) that the reasoning which commended itself to those distinguished jurists applied to the present case, and disposed of the contention now under discussion. For those reasons he was of opinion that the appeal failed, and must be dismissed, with costs.

Lords DUNEDIN, ATKINSON, PHILLIMORE and CARSON concurred.

COUNSEL: *The Solicitor General* (*Sir Thomas Inskip*, K.C.) and *R. P. Hills*; *Latter*, K.C., and *H. P. Glover*.

SOLICITORS: *Solicitor of Inland Revenue*; *W. P. Ellen*, for *Peace & Darlington*, Liverpool.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—Chancery Division.

Graigola Merthyr Company Ltd. *v.* Swansea Corporation.

Tomlin, J. 31st May.

WATERWORKS—MINE UNDER RESERVOIR—FLOODING—ANTICIPATED DANGER OF—*quia timet* ACTION—WATERWORKS CLAUSES ACT, 1847, 10 & 11 Vict., c. 17, ss. 6 and 27—WATERWORKS CLAUSES ACT, 1863, 26 & 27 Vict., c. 93, s. 3.

Sections 6 *and* 27 *of the Waterworks Clauses Act*, 1847, *leave the undertakers liable to all legal proceedings which, before the Act, were open to mineowners for protection against damage or injury arising from works whether actual or threatened.*

These sections do not prevent quia timet *proceedings being brought by a mine against a corporation to prevent the corporation from flooding a reservoir constructed over the mine area.*

In re Holliday and Wakefield Corporations Arbitration, 1880, 20 Q.B.D. 699 *applied*.

Action. The only question of law calling for report in this case was whether *quia timet* proceedings would lie, having regard to the Waterworks Clauses Act, 1847, ss. 6 and 27. The facts were as follows:—Under the Swansea Waterworks Acts, 1860 and 1873, the defendants constructed a reservoir. These Acts incorporated the material parts of the Waterworks Clauses Act, 1847, and the Waterworks Clauses Act, 1863, respectively. This reservoir was completed and filled in 1879, and remained filled and in use till 1911, when it was emptied. The plaintiffs were the owners of three collieries extending under the reservoir, and when their workings came near the defendants' boundary, negotiations were entered into which resulted alternatively, in an agreement dated 23rd September, 1912, whereby the plaintiffs were given liberty to work and get the minerals in the Graigola Seam underlying the reservoir buildings and underground pipes and works of the defendants, and within forty yards therefrom, work to be completed so far as practicable within two years, and the defendants agreed to keep the reservoir empty for a period of three years after the completion of the working of the seam. The minerals were not completely worked till 1917, and it was agreed that the three years mentioned in the agreement should run from the 1st February, 1917. In 1920 the defendants expressed their intention to fill the reservoir, and the plaintiffs brought this *quia timet* action for an injunction to restrain the defendants from filling the reservoir so as to cause danger to the plaintiffs' collieries under and adjacent thereto. Section 6 provides that the undertakers "shall make to the owners and occupiers of and all other parties interested in any lands or streams taken or used for the purposes of the special Act, or injuriously affected by the construction or maintenance of the works thereby authorised," full compensation to be ascertained under the Act. Section 27 enacts: "Nothing in this or the Special Act shall prevent the undertakers from being liable to any action or other legal proceeding to which they would have been liable for any damage or injury done or occasioned to any mines by means or in consequence of the waterworks, in case the same had not been constructed or maintained by virtue of this Act or the special Act."

TOMLIN, J., after stating the facts, said:—The defendants have contended first, that under the Act of 1847 (except as in s. 27 mentioned), the remedy of any person injuriously affected by the construction or maintenance of the works was taken away and he was left to compensation under s. 6; and, secondly that, under s. 27, mineowners were put in a favoured position to the extent that they could sue for damages for injury actually suffered, but when no injury had been actually suffered, they had no remedy by way of *quia timet* action; and thirdly, that the omission in the Act of 1847 of any provision for dealing with threatened injury to a mine, was made good by s. 3 of the Act of 1863, which enabled any person interested to complain to the justices that any reservoir was in a dangerous state, upon which the justices were to make enquiry, and had power to make orders for the lowering of the water or any requisite works. In my judgment, it would be a narrow construction to say that s. 27 of the Act of 1847 did nothing more than save the mineowners from a common law action for damages. In my judgment, the section leaves the undertakers liable to all legal proceedings which, before the Act, were open to mineowners for protection against damage or injury arising from the works, whether actual or threatened. I cannot think that the mineowners are bound to wait until the blow, however inevitable or disastrous, has actually fallen before they are entitled to move. The wider construction that I prefer to adopt fits in with the construction of ss. 18 to 26, and explained by Fry, L.J., in *In re Holliday and Wakefield Corporation's Contract*, 1888, 20 Q.B.D. 699, at p. 716, and 1891 A.C., at p. 93. The preliminary point accordingly fails.

COUNSEL: *Upjohn*, K.C., *J. G. Wood* and *A. T. James*; *Sir Leslie Scott*, K.C., *Valentine Holmes*, and *T. Jenkin Jones*.

SOLICITORS: *Beamish, Hanson, Airy & Co.*, for *Gwilym, James, Llewellyn & Co.*, Merthyr Tydfil; *Peter Thomas and Clarke*, for *H. L. Lang-Coath*, Swansea.

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

High Court—King's Bench Division

Gosse Millard, Ltd. *v.* Canadian Government Merchant Marine, Ltd.; American Can Company *v.* Same.

Wright, J. 23rd May.

SHIP—BILL OF LADING—DAMAGE TO CARGO—CAUSE—NEGLIGENCE—UNEXPLAINED CAUSE OF DAMAGE—LIABILITY OF SHIPOWNER—ONUS OF PROOF—CARRIAGE OF GOODS BY SEA ACT, 1924, 14 & 15 Geo. 5, c. 22, Sched., Art. III (2).

A cargo of tinplates was damaged by contact with fresh water. In an action for damages it was held that under the Carriage of Goods by Sea Act, 1924, *the shipowner was a bailee, and the onus was upon him to prove that the damage had not been caused by the negligence of his servants.*

The plaintiffs in these actions, which were heard together, Gosse Millard Limited, and the American Can Company, claimed damages from the defendants, the Canadian Government Merchant Marine Limited, for breach of duty and/or contract in the carriage of certain tinplates in the defendant's steamship "Canadian Highlander." In February, 1925, the first plaintiffs shipped on the above steamer at Swansea, South Wales, a quantity of tinplates for Vancouver. The second plaintiffs also had on board on the same voyage a consignment of tinplates for the same destination. The steamer arrived at Liverpool, from Swansea, on the 8th February, and discharged certain cargo. When leaving the dock, outward bound, on the 10th February, she came into collision with the dock-head, and was so badly damaged that she was detained for ten weeks undergoing repairs. She arrived at Vancouver on the 17th May, and it was found on discharging the tinplates that a large proportion of them were rusty, stained and depreciated by contact with fresh water. The plaintiffs

pleaded that the goods were loaded in good order and condition; that the defendants loaded and/or stowed the boxes containing the plates so negligently that many of them were broken and their contents exposed; and that the defendants had also been negligent in shifting and re-stowing the boxes when executing repairs in Liverpool. The defendants pleaded a general denial and referred to the conditions in the bill of lading regarding the packing cases. They further pleaded that if the plates were damaged it was due to inherent vice, or to insufficient packing because the boxes containing the plates were not tin-lined and were made of unseasoned wood; and that the plaintiffs themselves had been negligent in shipping the goods in wet weather. They further relied on Art. IV, r. 2 (*a*), (*c*), (*d*), (*i*) and (*q*) of the Carriage of Goods by Sea Act, 1924. Counsel for the defendants stated that in effect the Act declared that the shipowner should now be liable only for negligence, he was only under the obligation of an ordinary bailee to take reasonable care. He submitted that as there had been no actual fault or privity on the part of the defendants themselves they were not liable; that all the evidence was consistent with the view that the damage must have been caused by the use of unseasoned wood in making the boxes. Counsel for the plaintiffs, dealing with the burden of proof imposed upon a bailee to show that he had not failed to exercise reasonable care and skill, referred to *The "Ruapehu,"* 70 Sol. J., 652; 42 T.L.R. 708, and *Dollar* v. *Greenfield, The Times*, 19th May, 1905. He contended that on the facts the evidence showed that for many years tinplates had been shipped in boxes like those under discussion, and there had never been any complaint, but on this voyage the boxes had been roughly handled on the ship and many of them had been broken. He also referred to *Hordern & Sons Ltd.* v. *Commonwealth and Dominion Line Ltd.*, 1917, 2 K.B. 420, and *Rowson* v. *Atlantic Transport Co.*, 47 Sol. J. 738; 1903, 2 K.B. 666.

Wright, J., giving judgment, stated the facts, and said that the real issue was how the damage was caused. One side held that it was caused through the use of unseasoned wood for packing; the other that it was due to wetting from external causes, in particular to exposure to rain during the long stay at Liverpool. In view of all the circumstances he had come to the conclusion that rain did get into the hold at Liverpool in sufficient quantities to cause the damage complained of. He found as a fact that the damage to the Gosse Millard shipment was due to wetting from rain at Liverpool; that the obligation imposed on the defendants by Art. III, r. 2, of the Act, had not been carried out. If he was wrong in that finding the only alternative was that the cause of damage was unexplained. He had come to the conclusion that the cause of damage was quite unexplained in respect of the American Can Company's claim. That conclusion and the above alternative conclusion made it necessary for him to deal with the question of onus of proof under the Carriage of Goods by Sea Act, 1924. Before the Act was passed it was the practice of shipowners to protect themselves by innumerable stipulations, but now their liabilities and immunities were precisely defined. It was not for the cargo owner to prove that the shipowner had been negligent. The shipowner was a bailee and was bound to restore the goods handed to him in the same condition as when he received them or to give a good reason for being unable to do so. The general principle applied here and the defendants had not discharged the onus which was on them to prove that the damage was due to one of the excepted perils and had not been caused by the negligence of their servants. The case came within Art. III, r. 2, and not within Art. IV, r. 2, of the Act. There must be judgment for the plaintiffs, with costs.

Counsel: For the plaintiffs, *W. A. Jowitt*, K.C., and *G. St. C. Pilcher*; for the defendants, *A. T. Miller*, K.C., and *Sir Robert Aske*.

Solicitors: *William A. Crump & Son; Botterell and Roche.*

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Allison *v.* **Allison.** Hill, J. 27th July.

Divorce—Decree of Restitution of Conjugal Rights—Periodical Payments—"Contracting Out" Clause in Settlement—Securing Reversionary Interests—Judicature (Consolidation) Act, 1925, 15 & 16 Geo. 5, c. 49, ss. 190 (4), 187, 186—Matrimonial Causes Act, 1884, 47 & 48 Vict., c. 68, ss. 2, 4.

The court will not order a husband to secure periodical payments out of reversionary interests which have not come into his possession.

Tangye *v.* Tangye, 1914, P. 201, *explained.*

This was an appeal by a husband from an order of the registrar, directing the husband to make periodical payments and to secure during the joint lives. There was a cross-appeal by the wife on the question of amount. The facts appear from the judgment.

Hill, J., in a considered judgment, said: The wife obtained a decree of restitution of conjugal rights on 24th January, 1927, which was disobeyed. Thereafter she petitioned the court to secure during the joint lives of her husband and herself such periodical payments for the maintenance of herself and her children and for the education of the children as seemed just. The registrar ordered that the husband should secure to the wife during the joint lives £120 per annum, less tax, payable monthly, plus one-third of the income to be received by the respondent from his reversionary interests under the will of his late father. Both parties were dissatisfied with the order as to amount, but the respondent further contended (1) that, having regard to a settlement made on 21st May, 1924, the petitioner was precluded from asking for any sum for maintenance beyond the income agreed under the settlement; (2) that the registrar had no power to direct the respondent to secure to the petitioner during the joint lives one-third of the income from the reversionary interests. Those two contentions raised points of principle: As to the first, the settlement, which was made in contemplation of a resumption of co-habitation, provided that the income of the trust fund should be paid to the wife during her life: "Such income to be expended by the wife so long as she and the settlor shall continue to reside together in or towards the joint upkeep of their establishment, and for pin money and dress allowance of the wife but should the settlor and the wife hereafter live apart, the wife shall be entitled to receive and use such income in or towards the maintenance of herself and her child or children, as the case may be." Then followed provisions about what was to be done after the death of the wife. He could not read into the settlement an agreement by the wife to limit her claim to maintenance to the income of the trust fund and found no such contract proved. He rejected the respondent's contention on that point.

The second contention raised a more difficult question—namely, whether in proceedings in respect of disobedience to a decree of restitution of conjugal rights, there was power to order an immediate dealing with the reversionary interests of the husband by making him now secure to the wife a part of that reversionary interest: section 190, sub-s. (4) of the Judicature (Consolidation) Act, 1925, empowered the court to make an order for alimony on a decree of restitution of conjugal rights. Section 187, the relevant section empowered the court to order the husband to secure to the wife periodical payments, and s. 196 gave power to vary those payments. But the periodical payments must first be fixed before an order could be made to secure it. That was inconsistent with a power to order the immediate securing of prospective periodical payments which were uncertain in amount and

which might hereafter be ordered. The point was, he thought, covered by authority. Sir Samuel Evans in *Tangye* v. *Tangye*, a case decided on section 2 of the Matrimonial Causes Act, 1884, and reported in 1914, P. 201, at p. 211, said: "The third head of submission in the registrar's report is that 'one-third of the husband's interest under his father's will to come into possession after the death of his mother, be secured for the benefit of the petitioner for her life.' This does not comply with the provisions of the section and is not a proper order for periodical payments. If and when the husband's reversionary interests under his father's will come into possession and provide him with more capital or income, an application can be made for an increase of the amount under s. 4 of the Act. Such an application could also be made if the husband sold his reversionary interest (if he has the power to do so), before it fell into possession." He thought that Sir Samuel Evans meant that the order, for securing payment, during the joint lives, could not be made until the reversionary interest came into possession or was sold, and that it could then be made in conjunction with an increase in the periodical payments. That accorded in principle with the difference which the court had always considered to exist between decrees putting an end to the marriage and decrees which did not put an end to the marriage. A decree for restitution of conjugal rights must always be made on the assumption that it would some day be obeyed, and the arrangements made were properly tentative and alterable from time to time; whereas, when a marriage was finally declared null or was dissolved, it was more natural that some permanent arrangement should be made. The result was that the order for periodical payments was properly made, but the direction that the respondent should now secure any proportion of his reversionary interests must be omitted. The matter would be referred back to the registrar on the question of amount.

COUNSEL: *Noel Middleton* and *Harold Barker*, for the wife, the petitioner; *H. B. Durley Grazebrook*, for the husband, the respondent.

SOLICITORS: *Johnson, Weatherall, Sturt and Hardy; Stokes and Stokes*, for *Criddle, Ord and Muckle*, Newcastle-upon-Tyne.

[Reported by J. F. COMPTON MILLER, Esq., Barrister-at-Law.]

Legal Notes and News.

Honours and Appointments.

Mr. SAUL SOLOMON, K.C., has been appointed to be a Judge of the Transvaal Division of the Supreme Court *vice* Mr. Justice Stratford, who has been appointed to the Appellate Division.

Mr. J. J. MURPHY, Town Clerk of Dublin, has been selected as Chairman of the Electricity Supply Board in control of the Shannon Scheme.

Mr. R. H. JONES has been appointed Clerk to the Henstead Rural District Council in succession to Mr. W. C. Ripley, B.A., Solicitor.

Mr. S. JACOBS, Assistant Town Clerk of Croydon, is retiring at the end of the year, when he will assume the duties of Mayor's Secretary.

At the opening proceedings of the Institute of International Law, which met in Lausanne on Wednesday after an interval of two years, Sir THOMAS BARCLAY was made a *membre d'honneur*, and Dr. HUGH BELLOT, secretary of the International Law Association, was promoted from associate to full membership.

Mr. E. GILFILLAN, solicitor, of the Town Clerk's Office, Burnley, has been appointed Assistant Solicitor in the office of the Town Clerk of Kingston-on-Thames. Mr. Gilfillan was admitted in 1926.

A UNIVERSAL APPEAL.
TO LAWYERS: FOR A POSTCARD OR A GUINEA FOR A MODEL FORM OF BEQUEST TO THE HOSPITAL FOR EPILEPSY AND PARALYSIS, MAIDA VALE, W.

Wills and Bequests.

Mr. Robert Walker Davies, of Caerblaidd, Festiniog, Merionethshire, solicitor, who died on 24th March, aged sixty-five, left estate of the gross value of £31,102. He left: £500 to the rector and churchwardens of Festiniog for the erection of a church room for the benefit of the parish; £400 to the War Memorial Hospital at Blaenau Festiniog; £100 each to his chauffeur, Alfred Woolford, his gardener, Richard Thomas, and his clerk, Robert William Davies.

Mr. Edward Cadge, solicitor, of Bank-house, Loddon, Norfolk, who died on 27th June, aged seventy-seven, left estate of the gross value of £133,374. He left £50 to his chauffeur, William Codling, if still in his service.

Mr. James White, of Park-street, Westminster, S.W., of Strand, W.C., and of King Edward's-place, Foxhill, Wiltshire, chairman and managing director of the Beecham Trust, and lately chairman of George Edwardes (Daly's Theatre), Limited, and a director of the Tyre Investment Trust, who died on 29th June, aged forty-nine, intestate, a native of Rochdale, left property now sworn for probate as of the gross value of £83,002, with net personalty nil, "so far as at present can be ascertained." Letters of administration of his property have been granted to his widow, Mrs. Doris White, and his daughter, Mrs. Agnes Hickey, both of Park-street, Westminster. Surety in a sum of £166,000 has been given on behalf of the administrators by the Railway Passengers' Assurance Company under date 21st July, and the solicitor acting in the matter of the administration is O. L. Richardson, of Strand, W.C.

THE GARDENERS' TAX.

If a person employs a jobbing gardener only once or twice a week he is apparently liable to a tax of 15s. a year. If the employer does not take out a licence for him he can be prosecuted, an official of the Local Taxation Department of the London County Council recently stated.. The Act under which the tax is levied is an old one, but thirteen Odiham (Hampshire) householders were each fined £1 on Wednesday for keeping men-servants without licences.

"The Act refers to all male persons employed in the house in their 'personal, domestic, or menial capacity,'" said the official. "Every man who employs a male servant in any capacity is liable. A practice, however, has grown up which exempts a certain number of purely casual employees, but actually they might all be included. The tax is levied under the Revenue Act of 1869, and the term 'male servant' then included such people as maitre d'hotel, master of the horse, groom of the chambers, valet de chambre, clerk of the kitchen, postilion, helper in the stables, huntsman, and whipper-in. Of course, the chauffeur was not thought of in those days, but he came in under the Motor Car Act of 1903, when a motor driver was defined as a coachman for the purposes of taxation. Everybody who has employed male servants for any length of time knows about it. We have had to prosecute in a number of cases during recent years, but when the defaulters are informed of the existence of the tax they are usually only too willing to pay up.

"Of course, the newly-rich who are not accustomed to male servants and the car-owner who suddenly decides to employ a chauffeur often evade the Act for some time, but in the end we detect them. It is just like the dog-licence, you know. Some people evade the tax until something happens to put us on to his track. There are not many people about who employ men in their houses and do not pay the tax."

The Police Superintendent explained that the police were combing out Hampshire, as many well-to-do people were not paying the tax.

DRIED MILK.

The Minister of Health proposes to make regulations amending the Public Health (Dried Milk) Regulations, 1923, so far as they relate to the labelling of dried milk. The regulations will come into operation on the 1st July, 1928, and will apply to all dried milk intended for sale for human consumption in England and Wales.

Copies of the draft regulations which have been prepared for this purpose can be purchased under the description "Draft, dated 12th August, 1927, of the Public Health (Dried Milk) Amendment Regulations, 1927," from H.M. Stationery Office, Adastral House, Kingsway, W.C.2, either directly or through any bookseller (price 1d.).

Any representations on the subject should be addressed to the Secretary to the Ministry within forty days from this date.

ANNUAL MEETING OF CANADIAN BAR ASSOCIATION.

Lord Hewart, Sir Willes Chitty, Mr. Villeneuve Smith, of the Australian Bar Association, official representatives of the American Bar Association, and distinguished lawyers from France, Japan and other parts of the world attended the twelfth annual meeting of the Canadian Bar Association at Toronto this week.

The Lord Chief Justice, Lord Hewart, gave an instructive and interesting address before the Association on the study of Roman Law and the work of the Court of Criminal Appeal in England.

After referring to the danger, now temporarily overcome, in which the study of Roman Law has been in England, he emphasised the value of the study of the Civil Law to students of the Common Law. He then described the working of the Court of Criminal Appeal in England since its creation in 1907. The average number of sittings of the court in recent years has been about forty per annum, including one sitting during the Long Vacation, and he pointed out that the average time that elapses between the receipt of the notice of appeal or application for leave to appeal and the time when the matter is finally determined by the court is from four to five weeks.

Sir James Aikins, the President of the Association, in his presidential address, contended that the legal profession was ignored too much by the Canadian Legislatures, and argued that they should avail themselves more of the collective opinion of the Bar with regard to legislative measures affecting the law or its application.

RATING AND VALUATION ACT.

Mr. Samuel Harris, an Associate of the Auctioneers' and Estate Agents' Institute, and a member of the firm of Messrs. Harris & Gillow, 80-82, Wardour-street, W.1, who specialise in matters relating to theatres, cinemas, music halls, etc., has been appointed Valuer of these special properties to the Northumberland County Council under the provision of the Rating and Valuation Act, 1925.

SOLICITOR BEARS THE COST.

A petition has been prepared for the reprieve of Arthur Harnett, a young Hemsworth miner and ex-soldier, under sentence of death at Leeds for the murder of Mrs. Isabella Moore, of Hemsworth. Mr. W. T. Scholes, a Leeds solicitor, who is acting for Harnett under the Poor Prisoners Act, is organizing the reprieve petition at his own cost.

Mr. Justice F. Ford, one of the puisne judges of Alberta, Canada, and formerly Deputy Attorney-General of Saskatchewan, who is on a visit to this country to study our legal system, occupied a seat on the Bench with Mr. Justice Clauson, in the Vacation Court on Wednesday.

Samuel Shipton, formerly a solicitor practising at Neath, was committed for trial there recently on three charges of alleged fraudulent conversion of moneys received by him for a client, Llewellyn Rees Morgan, who was adjudged bankrupt in 1925. Shipton was adjudged bankrupt last year.

SOLICITOR FINED £50.

Eric Bache Politzer, aged thirty, a solicitor, of Hyde Park Gardens, Bayswater, accused of misconducting himself at his address, with intent to insult women, was fined £50, with five guineas costs, at Marylebone Police Court recently.

SOUND ADVICE.

He who knows not and knows not he knows not,
He is a fool; ignore him.
He who knows not and knows he knows not,
He is simple; teach him.
He who knows, and knows he knows,
He is wise; follow him.

THE MIDDLESEX HOSPITAL.

When called upon to advise as to Legacies, please do not forget the Claims of the Middlesex Hospital, Which is urgently in need of Funds for its Humane Work.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4½%. Next London Stock Exchange Settlement Thursday, 8th September, 1927.

	Middle Price 24th Aug.	Interest Yield.	Yield with Redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	84⅝	4 14 6	—
Consols 2½%	54¾	4 11 6	—
War Loan 5% 1929-47	101¾	4 18 6	4 19 0
War Loan 4½% 1925-45	97	4 13 6	4 17 0
War Loan 4% (Tax free) 1929-42	101½	3 19 0	3 19 6
Funding 4% Loan 1960-90	86¾	4 12 0	4 14 0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	92¾xd	4 6 6	4 8 6
Conversion 4½% Loan 1940-44	97½	4 12 0	4 15 6
Conversion 3½% Loan 1961	76½	4 11 6	—
Local Loans 3% Stock 1921 or after	63¾	4 14 0	—
Bank Stock	255½	4 14 0	—
India 4½% 1950-55	93½	4 16 0	4 19 0
India 3½%	70½	4 18 6	—
India 3%	60⅜	4 19 0	—
Sudan 4½% 1939-73	92¾	4 17 0	4 18 0
Sudan 4% 1974	84½	4 15 0	4 18 6
Transvaal Government 3% Guaranteed 1925-53 (Estimated life 19 years)	80¾	3 14 0	4 12 6
Colonial Securities.			
Canada 3% 1938	84½	3 11 6	4 18 0
Cape of Good Hope 4% 1916-36	93¾	4 5 6	5 0 0
Cape of Good Hope 3½% 1929-49	80½	4 7 0	5 0 6
Commonwealth of Australia 5% 1945-75	98¼	5 2 0	5 2 6
Gold Coast 4½% 1956	93½	4 16 0	4 18 0
Jamaica 4½% 1941-71	92½	4 17 6	4 19 0
Natal 4% 1937	93¼	4 6 0	4 19 6
New South Wales 4½% 1935-45	90⅜	5 0 0	5 8 0
New South Wales 5% 1945-65	98¼	5 2 0	5 4 0
New Zealand 4½% 1945	95¼	4 14 6	4 18 0
New Zealand 5% 1946	102⅛	4 18 0	4 18 6
Queensland 5% 1940-60	99	5 1 0	5 3 6
South Africa 5% 1945-75	102¾	4 17 6	4 18 6
S. Australia 5% 1945-75	98½	5 1 6	5 3 0
Tasmania 5% 1945-75	99½	5 1 0	5 1 6
Victoria 5% 1945-75	100	5 0 0	5 2 6
W. Australia 5% 1945-75	98¾	5 1 6	5 3 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corpn.	63	4 15 6	—
Birmingham 5% 1946-56	103½	4 17 6	4 17 0
Cardiff 5% 1945-65	100xd	5 0 0	5 0 0
Croydon 3% 1940-60	69¼	4 7 6	5 0 0
Hull 3½% 1925-55	77¾	4 10 0	5 0 0
Liverpool 3½% on or after 1942 at option of Corpn.	73	4 16 0	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	52½	4 15 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	62¾	4 16 0	—
Manchester 3% on or after 1941	62¾	4 15 6	—
Metropolitan Water Board 3% 'A' 1963-2003	63	4 15 6	4 17 6
Metropolitan Water Board 3% 'B' 1934-2003	63¾	4 14 0	4 16 0
Middlesex C. C. 3½% 1927-47	82	4 5 6	4 17 0
Newcastle 3½% irredeemable	72	4 17 6	—
Nottingham 3% irredeemable	63	4 15 6	—
Stockton 5% 1946-66	101	4 19 0	4 19 6
Wolverhampton 5% 1946-56	102	4 17 6	4 18 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	80	5 0 0	—
Gt. Western Rly. 5% Rent Charge	98	5 2 0	—
Gt. Western Rly. 5% Preference	92¼	5 8 0	—
L. North Eastern Rly. 4% Debenture	74½	5 7 6	—
L. North Eastern Rly. 4% Guaranteed	68¾	5 16 6	—
L. North Eastern Rly. 4% 1st Preference	62	6 8 6	—
L. Mid. & Scot. Rly. 4% Debenture	79	5 1 6	—
L. Mid. & Scot. Rly. 4% Guaranteed	76½xd	5 5 0	—
L Mid. & Scot. Rly. 4% Preference	71¼	5 12 0	—
Southern Railway 4% Debenture	78	5 2 0	—
Southern Railway 5% Guaranteed	95	5 5 0	—
Southern Railway 5% Preference	88	5 13 6	—

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